

Internal Revenue Service

District  
Director

Department of the Treasury

P.O. Box 2508  
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

Date: MAY 4 1987

Dear Sir or Madam:

This is a final adverse determination letter. Your application for tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1954 is hereby denied. That statute provides for exemption from Federal Income Tax for corporations or any community chest, fund or foundation that is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Although some of your activities will accomplish charitable and educational purposes, many activities will be directed to the economic advancement of businesses in the area and to the economic benefit of the people involved in the film industry. These activities are personal in nature and the benefit that extends to the general public is incidental. Therefore, these activities are not strictly within the scope of charitable or educational activities within the meaning of section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations.

Your letter of [REDACTED] did not contain any additional facts, law or other information to change our position. Accordingly, your application for recognition of exemption under section 501(c)(3) of the Code is denied and this letter becomes our final determination.

Contributions to you are not deductible by donors as provided in section 170(c) of the Code.

Since you did not protest in a timely manner, we have considered this as a failure to exhaust available administrative remedies. Section 242B(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

However, if you believe that you have exhausted your administrative remedies and want a declaratory judgment, your petition must be filed before the 91st day after the date of this letter to you.

[REDACTED]

A copy of this notification has been furnished to the appropriate state officials in accordance with section 6104(c) of the Internal Revenue Code.

Since you are not exempt, you must file all tax returns required of you by the Internal Revenue Code.

Sincerely yours,

[REDACTED]

District Director

**Internal Revenue Service**

**Department of the Treasury**

District  
Director

P.O. Box 2508, Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

FEB 6 1987

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892 (Rev. 7-83), "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

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If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

A black rectangular redaction box covering the signature of the District Director.

District Director

Enclosures: 3

Enclosure I

The Application discloses that [REDACTED] (hereafter called [REDACTED]) was incorporated in the State of [REDACTED] on [REDACTED].

The Articles of Incorporation state that the purposes of the organization are:

"....to promote commerce in counties specified as [REDACTED] and [REDACTED] and (1) to promote, advertise a positive image of these counties; (2) support educational facilities thus enhancing opportunities for those who wish to work in the film and videotape industry; (3) encourage and aid student and independent film makers in terms of information and resources; (4) unify government operations within the above stated counties for the above stated purposes; (5) record and coordinate businesses in these areas who wish to participate in the film industry.

The application indicates that the specific activities of the Commission will be: (1) To encourage the growth of a film production community that will bring economic dollars back into the [REDACTED]-county area by working with educators and communities to enlarge the talent base; (2) Educate residents and businesses, in the same counties on production coming into the area; (3) Unify resources, publish brochures, information resource books, and a film or video tape for the [REDACTED] county area to promote location to production companies looking for sites in [REDACTED]; (4) Solve problems relating to production for production companies, cities, and residents; (5) Find locations, people, and information for production companies coming into the [REDACTED] county area; and (6) Help other commissions needing information about the area.

[REDACTED] plans to speak to Chambers of Commerce and city officials in the various cities and towns represented to let them know how the film industry could impact on their members' financial growth. [REDACTED] also plans a directory of the businesses and city facilities to help production companies coming to find what they need within the designated area.

[REDACTED] local colleges offer stage and electronic media classes which provide new talent to serve production needs. [REDACTED] has no plans to provide actual educational facilities or job placement.

One of the most important activities of [REDACTED] will be the gathering and dissemination of information on the area. The informational packets will be furnished to studios and production companies telling them about the area and what it has to offer; and a packet will be furnished to the schools and communities telling them why business is good economically for the area and how they can be involved in the process. A video tape is planned to attract production companies to the community. The tape will be made with local talent, to show the skills of the people as well as the benefits of the locations.

Currently, [REDACTED], in cooperation with the local cable company, produces a monthly cable TV program entitled "[REDACTED]." The intent is to inform the community of the content and potential of various careers in the arts. One of your directors is also the Director of Community Programming for the local cable service. Anyone in the area can produce a show for local cable at no cost. In addition, [REDACTED] provides an arts calendar to announce theater, art displays, and other events in the area and to encourage attendance.

Thus far, [REDACTED] has worked with several production companies in the areas. The activities conducted have been to obtain extras to work in the films, arrange police escorts during shooting, find locations for filming, answer questions regarding equipment rental, and work with the State Film Commission to encourage film producers to come to the State.

The income of [REDACTED] is expected to come from government grants and contributions. Expenses of the organization are projected to be for salaries and office supplies. [REDACTED] has not projected any expenses for the calendar of events. The local cable company produces the "[REDACTED]" program and absorbs the cost.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Revenue Ruling 76-419, 1976-2 C.B. 146, held that a nonprofit organization which had as its objectives the relief of conditions of poverty, dependency, chronic unemployment, and underemployment, and the reduction of community tensions in an economically depressed community qualified for exemption under section 501(c)(3) of the Code. In furtherance of those purposes, the organization encouraged industrial enterprises to locate new facilities in the economically depressed area in order to provide more employment opportunities for low-income residents of the area.

In this ruling, the organization purchased blighted land in the area and converted it into an industrial park. Businesses locating in this park were required by their leases to hire a significant number of presently unemployed persons and to train them in needed skills. In order to achieve the greatest community benefit, the organization selected tenants for the industrial park only those enterprises whose hiring policies conformed to fair employment legislation. Enterprises having initial requirements for low skill workers were favored over those with initial high skill job requirements, since the former were of greater immediate benefit to the surrounding depressed community.

In Revenue Ruling 77-111, 1977-1 C.B. 144, an organization formed to increase business patronage in a deteriorated area by providing information on the area's shopping opportunities, local transportation, and accommodations was not operated exclusively for charitable purposes and did not qualify for exemption under section 501(c)(3) of the Code.

In Situation 1 of that ruling, an organization whose purpose was to increase business patronage in a deteriorated area mainly inhabited by minority groups who presented television and radio advertisements describing the advantages of shopping in the area, and created a speakers' bureau and operated a telephone service providing information to prospective shoppers on transportation and accommodations in the area, and also informed the news media on the area's problems and potential, did not qualify for exemption.

The ruling held that although the activities may contribute to the achievement of the purposes described in section 501(c)(3) of the Code, their overall thrust was to promote business rather than to accomplish exclusively 501(c)(3) objectives. The organization did not limit its activities to exclusively charitable groups and provided assistance not only to minority business but also to business which were not experiencing difficulty because of their location in a deteriorated section of the community.

██████████ promotes all businesses in the ██████████ county area, without regard to financial condition or need. It provides specialized services to production companies to aid them in their respective production problems.

It appears that ██████████ is similar to the organization described in Revenue Ruling 77-111 because of its general purpose of promoting the business conditions in the area, without any charitable limitations.

Revenue Ruling 76-419 does not apply, because in that ruling, benefits were limited to organizations that provided measurable benefits to the unemployed and underemployed in the community. That organization also provided that employers would conduct training programs.

Due to the activities of ██████████, production companies occasionally offer employment to electricians, carpenters, extras, etc. However, this temporary employment makes no significant impact on unemployment or blighted conditions in the area. The use of hotels, restaurants, and other services does contribute to the overall economic condition of the area, but it does not serve an exclusively charitable purpose.



Although certain of [REDACTED]'s projects will be accomplishing charitable and educational objectives, many activities will be directed to the economic advancement of businesses in the area and to the economic benefit of the people involved in the film industry. These activities are personal in nature and the benefit that extends to the general public is incidental. Therefore, these activities are not strictly within the scope of charitable or educational activities within the meaning of section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations.

Accordingly, it is our opinion that you are not operated exclusively for charitable purposes as specified in section 501(c)(3) of the Code.

We believe that [REDACTED] may qualify for exemption under either section 501(c)(4) or 501(c)(6) of the Code. To apply for recognition under one of those sections, you must complete Form 1024. You do not have to re-submit any information that is already in the file.